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OFFICE OF PETITIONS

In re Application of :
Redding et al. :
Application No. 09/648,720 : ON PETITION
Filed: 25 August, 2000 :
Atty Docket No. 621-168 RCE :

This is a decision on the petition under 37 CFR 1.137(b),¹ filed on 21 January, 2005, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on 5 November, 2004, for failure to timely reply to the final Office action mailed on 4 June, 2004, which set a three (3) month shortened statutory period for reply. On 8 November, 2004 (certificate of mailing 4

¹Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

November, 2004), petitioners submitted a two (2) month extension of time accompanied by an amendment after final rejection. However, the amendment did not place the case in *prima facie* condition for allowance, and an Advisory Action was mailed on 22 December, 2004. Notice of Abandonment was mailed on 30 December, 2004.

Petitioners have filed a Request for Continued Examination (RCE) and have indicated that the previously filed amendment is the submission required under 37 CFR 1.114.

There is no indication that petitioners herein was ever empowered to prosecute the instant application. If petitioners desires to receive future correspondence regarding this application, the appropriate power of attorney documentation must be mailed. A courtesy copy of this decision will be mailed to petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary.

Pursuant to 37 CFR 1.136, an extension of time must be filed prior to the expiration of the maximum period obtainable for reply to avoid abandonment. Accordingly, since the \$590.00 extension of time fee submitted on 21 January, 2005, was subsequent to the maximum period obtainable for reply, this fee is unnecessary and will be credited to counsel's deposit account, No. 50-2335.

The application is being referred to Technology Center Art Unit 2142 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.



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